



DEPARTMENT OF THE ARMY
U.S. ARMY SECURITY ASSISTANCE COMMAND
5701 21ST STREET
FORT BELVOIR, VA 22060-5940

REPLY TO
ATTENTION OF

AMSAC-WP

13 October 2004

MEMORANDUM FOR DISTRIBUTION

SUBJECT: Prohibition on Taxation of U.S. Assistance (USASAC 04-06)

1. Reference memorandum, Defense Security Assistance Agency (DSCA), I-04/002395-P2, 31 Aug 04, subject: Prohibition on Taxation of U.S. Assistance (DSCA Policy 04-32) [SAMM E-Change 19]
2. The country receiving U.S. assistance pursuant to the Foreign Operations, Export Financing, and Related Programs Appropriations Act must exempt any articles, equipment, materials, supplies, goods, or other commodities purchased with U.S. assistance programs funding from all value added taxes (VAT) and customs duties or reimburse this amount. The prohibition applies only to commodities and does not apply to the foreign taxation of services. If the country taxes any items provided with funds appropriated and allocated pursuant to the Foreign Operations, Export Financing, and Related Programs Appropriations Act, the Secretary of State is required to: (1) certify that there are taxes on U.S. assistance that have not been reimbursed and (2) determine whether to withhold funds or waive the withholding. To ensure compliance, DSCA will issue data calls, at least annually, for information on prohibited taxes and submit it to the Department of State. The Defense Acquisition Regulation Council was asked to add to the DFARS guidance on the legislative prohibition on foreign taxation of U.S. assistance and associated reporting requirements.
3. Effective immediately, the SAMM requires a specific note (Order #5) on the prohibition on taxation of U.S. assistance be included in all Letters of Offer and Acceptance (LOAs) funded in whole or part with any type of U.S. Assistance Funds appropriated and allocated under the Foreign Operations, Export Financing and Related Appropriations Act. The new note will be incorporated in Table C5.T5. of the SAMM and contained in the Army DSAMS note table as P8A – Prohibition on Taxation of U.S. Assistance. This note, if applicable, will be included in any future LOAs, Amendments and Modifications.
4. To ensure compliance, request addressees advise their acquisition offices/contracting activities and the resource management offices regarding the prohibition on taxation of U.S. assistance on any sales under Section 506 of the Consolidated Appropriations Act, 2004 (Division D – Foreign Operations, Export Financing, and Related Programs Appropriations Act) (P.L. 108-199) and section 579 of the Consolidated Appropriations Act, 2003 (Division E – Foreign Operations, Export Financing, and Related Programs Appropriations Act) (P.L. 108-7) and of the requirement to capture VAT that violate the provisions.

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5. In anticipation of the annual DSCA data call, please forward the following information on prohibited taxes as it becomes available to the U.S. Army Security Assistance Command, 5701 21st Street, ATTN: Mr. Reggie Graham, AMSAC-SR, Fort Belvoir, VA 22060-5940:

- a. FMS Case Identifier
- b. Contractor name.
- c. Contract number.
- d. Contractor point of contact (name, phone number, fax number and email address.
- e. Amount of foreign taxes assessed by each foreign government.
- f. Amount of any foreign taxes reimbursed by each foreign government.


6. Examples of U.S. assistance programs are Foreign Military Financing (FMF), International Military Education and Training (IMET), Peacekeeping Operations (PKO), and International Narcotics Control and Law Enforcement (INCLE). Title 10 programs are normally not included. Under FMF, the following Terms of Sale are included:

- a. MAP Merger (M)
- b. FMS Credit(Non-Repayable) (N)
- c. EDA Grant (Q)
- d. FMS Credit (N)

7. Point of contact is Maria E. Patterson, 703-806-2280 or DSN 656-2280, email: Maria.Patterson@usasac.army.mil

8. USASAC -- The Army's Face to the World.

FOR THE COMMANDER:


DOUGLAS E. LEACH
Director, Weapons Integration and
Procedures Directorate

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U.S. ARMY SECURITY ASSISTANCE COMMAND, ATTN: AMSAC-OL, 54 "M"
AVENUE, SUITE 1, NEW CUMBERLAND, PA 17070-5096

U.S. ARMY SECURITY ASSISTANCE COMMAND, ATTN: AMSAC-MM, AMSAC-MA,
AMSAC-ME, AMCPM-NGW, 5701 21ST STREET, FORT BELVOIR, VA 22060-5940

PROGRAM EXECUTIVE OFFICE FOR SIMULATION, TRAINING AND
INSTRUMENTATION, ATTN: SFAE-STRI-CS, 12350 RESEARCH PARKWAY,
ORLANDO, FL 32826-3224

CF:

DIRECTOR

U.S. ARMY CORPS OF ENGINEERS, ATTN: CEMP-M, 441 G STREET NW,
WASHINGTON, DC 20314-1000

SECURITY ASSISTANCE TRAINING FIELD ACTIVITY-TRADOC, 173 BERNARD
ROAD, BUILDING 139, FORT MONROE, VA 23651-1003

DEFENSE INSTITUTE OF SECURITY ASSISTANCE MANAGEMENT,
DISAM, 2335 SEVENTH ST., WRIGHT-PATTERSON AFB, OH 45433-7803

OFFICE OF THE DEPUTY ASSISTANT SECRETARY OF THE ARMY, DEFENSE
EXPORTS AND COOPERATION, ATTN: SAAL-NP, 1777 N. KENT STREET, ROSSLYN,
VA 22209-2110